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8

9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-211

13 BRENDA EILEEN MAUPIN,  
a.k.a. BRENDA MAUPIN  
14 1505 Rock Creek Drive  
Blue Springs, MO 64015

ACCUSATION

15 Registered Nurse License No. 709948

16 Respondent.  
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
22 ("Board"), Department of Consumer Affairs.

23 2. On or about August 9, 2007, the Board issued Registered Nurse License  
24 Number 709948 to Brenda Eileen Maupin, also known as Brenda Maupin ("Respondent").  
25 Respondent's registered nurse license was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on June 30, 2009, unless renewed.

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1 a. Respondent was employed at Anesthesia Associates ("AA") in Kansas  
2 City, Missouri, as a registered nurse between December 30, 2002, and May 15, 2005.

3 b. On or about and between May 5, 2003, through May 16, 2003, Respondent  
4 diverted Fentanyl, a Schedule II controlled substance. Respondent knowingly and intentionally  
5 misappropriated the Fentanyl from AA by administering the prescribed doses to her patients and  
6 then taking home the leftover waste.

7 c. On or about May 3, 2005, Respondent was in possession of Propofol,  
8 which she knowingly and intentionally misappropriated from AA.

9 d. Respondent's conduct as alleged herein constitutes violations of Sections  
10 195.202, RSMo and 336.066.2(1), (5), (12), and (14), RSMo.

11 **PRAYER**


12 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
13 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License Number 709948, issued  
15 to Brenda Eileen Maupin, also known as Brenda Maupin;

16 2. Ordering Brenda Eileen Maupin, also known as Brenda Maupin, to pay the  
17 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this  
18 case, pursuant to Business and Professions Code section 125.3; and

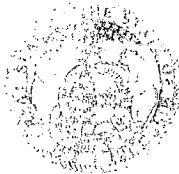
19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 3/23/09  
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23   
24 RUTH ANN TERRY, M.P.H., R.N.  
25 Executive Officer  
26 Board of Registered Nursing  
27 Department of Consumer Affairs  
28 State of California  
Complainant

**EXHIBIT A**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DISCIPLINARY ORDER**



Matt Blunt  
Governor  
State of Missouri

David T. Broeker, Director  
**DIVISION OF PROFESSIONAL REGISTRATION**

Department of Insurance  
Financial Institutions  
and Professional Registration  
Linda Bohrer, Acting Director

STATE BOARD OF NURSING  
P.O. BOX 656, Jefferson City, MO 65102-0656  
800-735-2966 TTY Relay Missouri 800-735-2466 Voice Relay Missouri

Web Site: <http://pr.mo.gov/nursing.asp>

Lori Scheidt  
Executive Director  
Telephone: 573-751-0681

## CERTIFICATION

I, Lori Scheidt, BS, Executive Director, of the Missouri State Board of Nursing  
certify that the document(s) which is/are attached is/are true and correct copy(s)  
of the information contained in the file of:

**BRENDA E. MAUPIN**

**Board Seal**

Missouri State Board of Nursing  
Lori Scheidt, BS  
Executive Director  
July 8, 2008

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## DOCUMENTS ATTACHED

Disciplinary Agreement(s)

**BEFORE THE STATE BOARD OF NURSING  
STATE OF MISSOURI**

STATE BOARD OF NURSING,	)	
	)	
Petitioner,	)	
vs.	)	Case No. 2005-003113
	)	
BRENDA MAUPIN,	)	
	)	
Respondent.	)	

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DISCIPLINARY ORDER**

This Board and the Respondent entered into a Settlement Agreement on May 6, 2008. In that Settlement Agreement, the parties stipulated that Respondent had violated the Nursing Practice Act and that her license was subject to discipline by the Board. The Board convened a hearing on June 6, 2008 at its regular meeting in Jefferson City, to determine what discipline, if any, the Board should impose on Respondent's Registered Professional Nurse License, Number RN 107563.

Respondent appeared in person without counsel. The Board was represented by Assistant Attorney General Rex Fennessey. Loretta Schouten acted as legal advisor to the Board. Evidence was adduced, exhibits were received and the matter was taken under advisement. The Board now enters its findings of fact, conclusions of law and disciplinary order in this matter:

**FINDINGS OF FACT**

1. The State Board of Nursing ("Board") is an agency of the state of Missouri created and established pursuant to § 335.021 RSMo for the purpose of executing and enforcing the provisions of Chapter 335 RSMo., the Nursing Practice Act.
2. Brenda Maupin holds a license from this Board as a Registered Professional Nurse, number RN 107563. Respondent's license is and was current at all times relevant herein.

3. The Settlement Agreement entered by the parties was received as an exhibit at the hearing. The Settlement Agreement is incorporated herein by reference as though fully set out.

4. Respondent stipulated that she committed a violation of the Nursing Practice Act.

5. Respondent stipulated that her license is subject to discipline by this Board.

### **CONCLUSIONS OF LAW**

6. The Board has jurisdiction in this proceeding, pursuant to the Settlement Agreement and §536.060 RSMo, to determine what discipline, if any, that the Board should impose.

7. The Settlement Agreement and §536.060 RSMo, allows the Board to take such disciplinary action that the Board deems appropriate.

### **DECISION AND ORDER**

8. It is the decision of the Missouri State Board of Nursing that Respondent has violated the Nursing Practice Act. Her license is, therefore, subject to disciplinary action.

9. It is the Order of the State Board of Nursing that the Registered Professional Nurse license of Brenda Maupin, number PN 107563, be placed on **PROBATION** for a period of five (5) years, upon the following terms and conditions:

### **GENERAL REQUIREMENTS**

A. Respondent shall meet with the Board or its professional staff at such times and places as required by the Board. If Respondent does not receive notice of a meeting with the Board within one (1) month after the effective date of this Order, Respondent shall contact the Board office at: **Missouri State Board of Nursing, P.O. Box 656, Jefferson City, Missouri 65102, or by telephone at: (573) 751-0681.** If Respondent fails to contact the Board office after the one (1) month period has passed, the Board will presume that Respondent received notification of the date and time of his meeting with the Board. Failure of Respondent to receive a notice of a scheduled meeting does not excuse Respondent's non-attendance.

B. Respondent shall immediately submit documents showing compliance with the requirements of this Order to the Board when requested.

- C. Respondent shall inform the Board within ten (10) days of any change of home address or home telephone number.
- D. Respondent shall not violate the Nursing Practice Act, Chapter 335, RSMo, shall renew her license immediately and shall not allow her license to lapse. Respondent may place her license on inactive status. The conditions of discipline will continue to apply if the license is inactive.
- E. Respondent shall keep the State Board of Nursing informed of her current place of employment and of any changes in her place of employment by notifying the Board within ten working days of such a change.
- F. Respondent shall not work as a Certified Registered Nurse Anesthetist in the state of Missouri during the disciplinary period.
- G. Respondent shall obey all federal, state and local laws, and all rules and regulations governing the practice of nursing in this state.

#### **PROGRAM COMPLIANCE IN ANOTHER STATE**

- A. During the disciplinary period, Respondent shall execute or provide any authorization necessary for the Board to obtain records evidencing Respondent's compliance with the Kansas Nurse Assistance Program (KNAP). The failure of Respondent to comply with this provision shall constitute a violation of Respondent's discipline.
- B. Respondent shall take any and all steps necessary to continue the release in effect and shall provide a new release when requested.
- C. Respondent shall cause a letter from KNAP to be submitted to the Board at least quarterly, with due dates to be determined.
- D. The letter shall include an evaluation of Respondent's current progress and status in KNAP and written results of all drug screens taken pursuant to KNAP.
- E. The letter shall be sent by KNAP addressed to State Board of Nursing, ATTN: Discipline Administrator, PO Box 656, Jefferson City, Missouri 65102.
- F. Failure to comply with the terms of KNAP shall be considered a violation of Respondent's probation with the Missouri State Board of Nursing.
- G. As long as Respondent is enrolled in KNAP, the following conditions do not apply. If Respondent is successfully discharged from KNAP, or leaves KNAP for any reason, the following conditions apply:



## GENERAL REQUIREMENTS

- A. Respondent shall immediately advise any employer or potential employer of Respondent's probationary status and shall provide a copy of this entire Order to any employer or potential employer.
- B. Respondent shall cause an evaluation form from each and every employer to be submitted to the Board at least quarterly, with due dates to be determined. The evaluation form shall be completed by Respondent's supervisor within a four-week period prior to the date it is due. If Respondent ends employment with an employer, Respondent shall, in addition, cause a final evaluation form from that supervisor to be submitted to the Board within a six-week period following the last day of employment.
- C. The evaluation shall be an evaluation of Respondent's job performance using a form prescribed by the Board and shall be sent by the supervisor addressed to: State Board of Nursing, ATTN: Discipline Administrator, P.O. Box 656, Jefferson City, Missouri 65102.
- D. If Respondent is not employed at any time during the period of discipline, Respondent shall instead submit, at least two weeks prior to the due date, an affidavit stating the period(s) of unemployment.
- E. Respondent shall execute any release or provide any other authorization necessary for the Board to obtain records of Respondent's employment during the period covered by this Order.
- F. Respondent may not serve on the administrative staff, as a member of the faculty or as a preceptor at any accredited school of professional or practical nursing.
- G. Respondent shall not carry narcotic keys or have access to automated dispensing devices which contain controlled substances.
- H. Respondent shall not administer, possess, dispense or otherwise have access to controlled substances.
- I. Respondent shall only work as a nurse at a facility where there is on-site supervision by another nurse or physician.
- J. Respondent shall not work for a temporary employment agency or as an independent contractor.
- K. Respondent shall not work in home health care or durable medical equipment.

## **REQUIREMENTS REGARDING CHEMICAL DEPENDENCY TREATMENT AND REHABILITATION**

- A. Respondent shall follow any recommendations for treatment made by her chemical dependency professional.
- B. Respondent shall execute a medical release or other appropriate release which shall remain in effect for the entire period covered by this Order authorizing the State Board of Nursing to obtain records of Respondent's treatment for chemical dependency. Respondent shall not take any action to cancel this release. Respondent shall take any and all steps necessary to continue the release in effect and shall provide a new release when requested.
- C. Respondent shall cause a letter of ongoing treatment evaluation from her chemical dependency professional to be submitted to the Board at least quarterly, with due dates to be determined.
  - (1) The letter shall include an evaluation of Respondent's current progress and status related to the treatment recommendations/plan and Respondent's current prognosis and treatment recommendations/plan.
  - (2) The letter shall be sent by the chemical dependency professional addressed to: State Board of Nursing, P.O. Box 656, Jefferson City, Missouri 65102.
- D. During the disciplinary period, Respondent shall abstain completely from the use or consumption of alcohol. The presence of any alcohol whatsoever in a biological fluid sample shall constitute a violation of Respondent's discipline.
- E. During the disciplinary period, Respondent shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required unless use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Respondent has a bona-fide relationship as a patient. Upon request, Respondent shall execute a medical release authorizing the Board to access all records pertaining to Respondent's condition, treatment, and prescription maintained by the health care professional that prescribed the controlled substance. The presence of any controlled substance whatsoever in a biological fluid sample for which Respondent does not hold a valid prescription shall constitute a violation of Respondent's discipline.
- F. Respondent shall inform any professional preparing a prescription for Respondent that Respondent is chemically dependent.
- G. Respondent shall provide the Board with documentation of any prescription upon request.
- H. Respondent shall submit evidence of weekly (or recommended) attendance at Alcoholics Anonymous, Narcotics Anonymous, or other support group meetings to the Board at such times as required by the Board, but not less than quarterly.

The documentation shall be on forms provided by the Board and shall include the date, time, and place of the meeting and shall bear a signature or abbreviated signature of another person verifying attendance.

- I. If the treatment of Respondent is successfully completed at any time during the period covered by this Order, Respondent shall cause the chemical dependency professional to submit a letter of final evaluation/summary which includes a statement that Respondent has successfully completed treatment and indicates whether Respondent should continue in a 12-step program. If continuance in a 12-step program is recommended, Respondent shall comply with terms of documentation as outlined in Paragraph H.

### **DRUG SCREENS**

- A. Respondent shall contract with NCPS, Inc. to schedule random witnessed screening for alcohol and other drugs of abuse or serum screening for alcohol or other drugs of abuse, the frequency of which shall be at the Board's discretion. The random urine/serum screens shall be at the expense of Respondent.
- B. Within two (2) weeks of her discharge from KNAP, Respondent shall complete the NCPS urine drug screen packet and submit the completed contract to NCPS.
- C. Failure of Respondent to comply with Respondent's contract with NCPS, Inc. shall result in a violation of the terms of discipline.

10. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 335, 610 and 620, RSMo. The Board will report this Order to data banks, other appropriate entities and in its newsletter. This is a disciplinary action against Respondent's license. The original of this document shall be kept in the Board's file and its contents shall be disclosed to the public upon proper request.

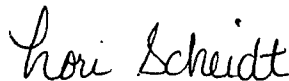
11. Upon the expiration of said discipline, Respondent's license as a registered professional nurse in Missouri shall be fully restored if all other requirements of law have been satisfied; provided, however, that in the event the Board determines that the Respondent has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline the Respondent.

12. No order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

13. If the Board determines that Respondent has violated a term or condition of this Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Order occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this Order has occurred.

Entered this 16<sup>th</sup> day of June 2008.

**STATE BOARD OF NURSING**



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Lori Scheidt  
Executive Director

**SETTLEMENT AGREEMENT BETWEEN STATE BOARD OF NURSING AND  
BRENDA E. MAUPIN**

Brenda E. Maupin ("Maupin") and the State Board of Nursing ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether cause exists for the Board to discipline Maupin's license as a registered professional nurse.

Pursuant to the terms of § 536.060, RSMo,<sup>1</sup> the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and agree that a final disposition of this matter may be effectuated following a disciplinary hearing before the Board.

Maupin acknowledges that she understands the various rights and privileges afforded her by law, including the right to an evidentiary hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the evidentiary hearing against her; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against her; and the right to request attorneys fees incurred in defending against the Board's action against her license. Being aware of these rights provided her by operation of law, Maupin knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to her.

Maupin acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause for discipline, along with citations to law and/or other regulations the Board believes were violated. For the purpose of settling this dispute, Maupin stipulates that the factual allegations contained in this settlement

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<sup>1</sup> All statutory citations are to the 2000 Missouri Revised Statutes, as amended.

agreement are true and stipulates with the Board that Maupin's license as a registered professional nurse, License No. RN 107563, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 335, RSMo.

### I. Joint Stipulation of Facts

1. The Missouri State Board of Nursing ("Board") is an agency of the State of Missouri created and established pursuant to § 335.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 335, RSMo, the Nursing Practice Act.

2. Brenda E. Maupin ("Maupin") is licensed by the Board as a Registered Nurse, License No. RN 107563 ("license"). This license is current and active, and was so at all times relevant herein.

3. Between December 30, 2002 and May 15, 2005, Maupin was employed as a registered nurse at Anesthesia Associates in Kansas City, MO.

4. Between about December 30, 2002 and May 15, 2005, Maupin had a relationship of professional confidence and/or trust with Anesthesia Associates and its patients.

5. <sup>5th-11th</sup> In May 2003, Maupin was <sup>diverted</sup> repeatedly in possession of Fentanyl. <sup>BM 4/8/08 PW 4-15-08 Lvs 4-21-08</sup>

6. Fentanyl is a schedule II controlled substance pursuant to § 195.017.4(2)(j), RSMo.

7. The Fentanyl Maupin <sup>diverted</sup> repeatedly possessed in May 2003 had been knowingly and intentionally misappropriated by Maupin from Anesthesia Associates. <sup>BM 4/8/08 PW 4-15-08 Lvs 4-21-08</sup>

8. Maupin misappropriated the Fentanyl she possessed in May 2003 by administering the prescribed doses to her patients, and then taking home the leftover waste.

9. On May 3, 2005, Maupin was in possession of Propofol.

10. The Propofol Maupin was in possession of on May 3, 2005 had been knowingly and intentionally misappropriated by Maupin from Anesthesia Associates.

11. Anesthesia Associates subsequently terminated Maupin's employment on May 15, 2005.

## **II. Joint Conclusions of Law**

12. Section 335.066.2, RSMo, provides in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by section 335.011 to 335.096;

\* \* \*

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 335.011 to 335.096;

\* \* \*

(12) Violation of any professional trust or confidence;

\* \* \*

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government[.]

13. Because Maupin knowingly and intentionally misappropriated and possessed Fentanyl throughout May 2003, she violated § 195.202, RSMo, providing cause to discipline her license pursuant to § 336.066.2(1) and (14), RSMo.

14. Because Maupin knowingly and intentionally misappropriated and possessed Fentanyl throughout May 2003, she engaged in misconduct and dishonesty in the performance and functions and/or duties of a licensed registered nurse, providing cause to discipline her license pursuant to § 336.066.2(5), RSMo.

15. Because Maupin knowingly and intentionally misappropriated and possessed Fentanyl throughout May 2003, she violated a professional trust and/or confidence, providing cause to discipline her license pursuant to § 336.066.2(12), RSMo.

16. Because Maupin knowingly and intentionally misappropriated and possessed Propofol on May 3, 2005, she engaged in misconduct and dishonesty in the performance and functions and/or duties of a licensed registered nurse, providing cause to discipline her license pursuant to § 336.066.2(5), RSMo.

17. Because Maupin knowingly and intentionally misappropriated and possessed Propofol on May 3, 2005, she violated a professional trust and/or confidence, providing cause to discipline her license pursuant to § 336.066.2(12), RSMo.

### **III. Additional Settlement Terms**

18. The parties to this settlement agreement understand that the Board of Nursing will maintain this settlement agreement and any Final Order issued by the Board, as an open and public record of the Board as provided in Chapters 335, 610, and 620, RSMo.



19. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

20. Maupin, together with her heirs, assigns, and her attorneys, hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof void or unenforceable.

21. Maupin understands that she may, either at the time the settlement agreement is signed by all parties, or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Maupin's license. If Maupin desires the Administrative Hearing Commission to review this agreement, Maupin may submit her request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri, 65101.

22. If Maupin requests review, this settlement agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the settlement agreement sets forth cause for disciplining Maupin's license. If Maupin does not request review by the Administrative Hearing Commission, the settlement agreement goes into effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

BOARD

Brenda E. Maupin RN  
Brenda E. Maupin, RN

Date: 4/8/08

Lori Scheidt  
Lori Scheidt  
Executive Director  
State Board of Nursing

Date: 4-21-2008

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**ATTORNEYS FOR STATE BOARD OF  
NURSING**